

# **Community Development Department**

**DATE:** July 20, 2021

**FROM:** Ben Ehreth, AICP, Community Development Director

ITEM: Lot 6, Block 11 Falconer Estates – Board of Adjustment Appeal

(Continued)

# **REQUEST:**

Bryan Skager has appealed the November 4, 2020 decision of the Board of Adjustment to deny a variance from Section 14-04-19(6)(b)(4)(c) of the City Code of Ordinances (FP – Floodplain District) to allow a recently constructed residential accessory building, located within the Special Flood Hazard Area (SFHA), below the elevation requirement outlined in the zoning ordinance, to remain. If approved as proposed, the residential accessory building constructed at an elevation of 1633.4, which is three feet, seven inches below the Base Flood Elevation (BFE) and five feet, seven inches below the elevation requirement outlined in the zoning ordinance.

The residential accessory building is located on Lot 6, Block 11, Falconer Estates (6300 Apple Creek Drive).

This item appeared on the December 8, 2020 City Commission meeting agenda and was tabled to the February 9, 2021 City Commission, and Community Development staff was directed to review and propose changes to ordinance requirements for accessory structures located within the SFHA.

During the Feburary 9, 2021 meeting, Community Development staff informed the City Commission that a stakeholder group had been created and a proposed ordinance was being drafted. Staff also informed the City Commission that review and approval of the draft ordinance was required by the Planning and Zonining Commission, the ND State Water Commission and FEMA prior to forwarding the draft ordinance to the City Commission for consideration and public hearing.

The draft ordiance has been scheduled for a public hearing and final action by the City Commission during the July 27, 2021 meeting.

Please place this item on the July 27, 2021 City Commission meeting agenda.

### **BACKGROUND INFORMATION:**

The Board of Adjustment held a public hearing, on the variance request on November 4, 2020. No members of the public spoke during the meeting; however, written comments both for and against the request were submitted to the Board. Comments along with the minutes of the hearing are attached.

During the public hearing staff provided the Board with a history of events that led up to the construction of the residential accessory building, including City and Burleigh County building permit information.

According to records, Mr. Skager submitted a permit application to the City of Bismarck – Building Inspection Division to construct a 1,200 square foot residential accessory building in June 2018. During review of the permit request, the Building Official / Floodplain Administrator and Mr. Skager discussed the requirements needed to complete the review and issue the building permit. Specifically, that the property was located within the SFHA, that an elevation certificate to determine the BFE would need to be provided for review prior to the issuance of a building permit, and the requirement to elevate the structure to two feet above the determined BFE. The discussed requirements were not submitted, and no additional conversations between the Building Official/Floodplain Administrator and Mr. Skager took place. The Building permit project was closed/expired in February 2019, and a building permit was not issued.

According to Burleigh County Building/Planning/Zoning Department records, Mr. Skager applied for and was issued a building permit from Burleigh County for a 1,170 square foot residential accessory building on June 3, 2020. The permit application for review included an elevation certificate which identified the BFE at 1637 and finished floor elevation of the residential accessory building at 1633.4. The Burleigh County Building/Planning/Zoning Department has acknowledged that the building permit was issued in error, as the property is not located within the County's jurisdiction. Once the error was found, Mr. Skager was directed to the City of Bismarck Building Inspections Division to obtain the required building permit.

Mr. Skager applied for a new City building permit on September 9, 2020. The permit was denied as the elevation certificate indicated that the residential accessory building was not elevated to two feet above the BFE as required by the zoning ordinance.

Staff explained to the Board that the zoning ordinance outlines elevation requirements for accessory buildings located within the SFHA and specifies that accessory buildings to residential structures are subject to the same construction requirements as residential structures. Residential structures are required to be constructed to two feet above the BFE.

Staff also explained that variances from the provisions outlined in the FP – Floodplain zoning district and subsequent findings to support a variance may be subject to additional review by Hazard Program Specialists with the National Floodplain Insurance Program (NFIP), which the City of Bismarck and its ETA is a member. Variances may impact the community's eligibility for participation in the NFIP. By participating in the NFIP, residents of the City of Bismarck and its ETA are eligible for flood insurance.

At the conclusion of the public hearing and based on the findings contained in the staff report, the Board of Adjustment voted 4 to 0 to deny the variance request.

The City Commission considered a request for an appeal of the Board of Adjustment decision at the December 8, 2020 City Commission meeting. The City Commission voted to table the request until the February 9, 2021 City Commission meeting to allow staff time to research information requested by the City Commission.

During the Feburary 9, 2021 meeting, Community Development staff informed the City Commission that a stakeholder group had been created and a proposed ordinance was being drafted. Staff also informed the City Commission that review and approval of the draft ordinance was required by the Planning and Zonining Commission, the ND State Water Commission and FEMA prior to forwarding the draft ordinance to the City Commission.

The draft ordiance has been scheduled for a public hearing and final action by the City Commission during the July 27, 2021 meeting.

# RECOMMENDED CITY COMMISSION ACTION:

Consider the request for an appeal of the November 4, 2020 decision of the Board of Adjustment.

If it is the intent of the City Commission to approve the variance as proposed, staff recommends identifying a hardship and that the following findings for a variance and floodplain variance are met.

# Variance Findings:

- 1. A unique condition of the property peculiar to the land or building that does not apply to others in the neighborhood and not from action by the applicant.
  - a. exceptionally irregular lot,
  - b. exceptionally narrow lot,
  - c. exceptionally shallow lot,
  - d. exceptionally steep lot,
  - e. other exceptional physical condition or
  - f. other exceptional topographical condition.
- 2. By reason of the items in 1 above, the strict application of the zoning ordinances

- would result in an unnecessary hardship that would deprive the owner of a reasonable use of the land or building.
- 3. If numbers 1 and 2 are found, then the Board must also make ALL the following additional findings:
  - a. This variance is necessary for reasonable use of the land or building,
  - b. This is the minimum variance that will accomplish the relief for the applicant,
  - c. This variance is in harmony with the general purposes and intents of the zoning ordinances, and
  - d. This variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

# Floodplain Variance Findings:

- Variances shall not be issued within the identified Special Flood Hazard Area (SFHA) if any increase in flood levels during the base flood discharge would result.
- 2. Variances may be issued if there is a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3. If numbers 1 and 2 are correct, then the Commission must also make ALL the following additional findings:
  - a. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and a hardship is a unique condition of the property peculiar to the land or building that does not apply to others in the neighborhood and not from action by the applicant.
    - i. Exceptionally irregular lot,
    - ii. Exceptionally narrow lot,
    - iii. Exceptionally shallow lot,
    - iv. Exceptionally steep lot,
    - v. Other exceptional physical condition, or
    - vi. Other exceptional topographical condition

# STAFF CONTACT INFORMATION:

Ben Ehreth, AICP | Community Development Director, 355-1842 or behreth@bismarcknd.gov

Brady Blaskowski, CBCO, CFM | Building Official and Floodplain Administrator, 355-1467 or bblaskowski@bismarcknd.gov

Kim L. Lee, AICP | Planning Manager, 355-1846 or klee@bismarcknd.gov

Jenny Wollmuth, AICP, CFM | Senior Planner, 355-1845 or jwollmuth@bismarcknd.gov



# **STAFF REPORT**

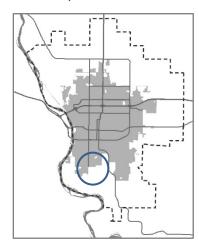
City of Bismarck Community Development Department Planning Division

**Application for: Variance** 

# TRAKIT Project ID: VAR2020-010

# **Project Summary**

Title:	Lot 6, Block 11, Falconer Estates (6300 Apple Creek Drive)
Status:	Board of Adjustment
Owner(s):	Bryan Skager
Project Contact:	Bryan Skager
Location:	South of Bismarck, south of Oahe Bend Drive and East of Sibley Drive, along the northwest side of Apple Creek Drive
Request:	Section 14-04-19(6)(b)(4)(c) of the City Code of Ordinances (FP – Floodplain District)



# **Staff Analysis**

Bryan Skager is requesting a variance to allow a recently constructed residential accessory building located within the Special Flood Hazard Area (SFHA) or 100-year floodplain at a finished floor elevation of 1633.4. The building is currently located three feet, seven inches below the Base Flood Elevation (BFE) and five feet, seven inches below the elevation requirement outlined in the zoning ordinance.

# Background Information

According to City records, the applicant applied for a building permit (BRAC2018-0074) to construct a 1,200 square foot accessory building in June 2018. After review of the application, the owner was notified by the City's Building Official / Floodplain Administrator that the property was located within the Special Flood Hazard Area (SHFA) and that a floodplain development application and additional submittal documents including an elevation certificate would be needed to review and approve the building permit. The owner was also informed that the lowest level of the accessory building must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE) of the property. A copy of the building permit application and review comments are attached.

The applicant and Building Official/Floodplain Administrator discussed the requirements needed to complete the review and issue the building permit over the phone. The submittal documentation was not received an no additional conversations between the application and Building Official/Floodplain Administrator took place and the building permit was closed/expired in February 2019.

According to Burleigh County Building/Planning/Zoning Department records, the applicant applied for and was issued a building permit by the County for a 1,170 square foot accessory building on June 3, 2020. The application for review included an Elevation Certificate with a survey completed May 27, 2020 and signed by a Registered Land Surveyor on June 2, 2020. The Elevation Certificate establishes the BFE at an elevation of 1637, contains photographs taken at the time of survey of the building under construction, and indicated that the building is located at a finished floor elevation of 1633.4. A copy of the Burleigh County building permit, Elevation Certificate and permit review are attached.

The Burleigh County Building/Planning/Zoning
Department has acknowledged that the building permit
was issued in error as the property is not located in the
County's jurisdiction. Once the error was found, the
applicant was directed to work with the City of
Bismarck Building Inspections Division to obtain a

(continued)

building permit for the accessory building that had been constructed.

The applicant applied for a new City building permit (BRES2020-0718) on September 9, 2020. The permit was denied as the elevation certificate indicated that the residential accessory building was not elevated two feet above the BFE as required by the zoning ordinance. A copy of the building permit application and review comments are attached

# Additional Information

The zoning ordinance outlines elevation requirements for accessory buildings located within the SFHA and specifies that accessory buildings to residential structures are subject to the same construction requirements as residential structures. Residential structures are required to be constructed two feet above the BFE.

The City of Bismarck and its extraterritorial area (ETA) are a participating community in the National Floodplain Insurance Program (NFIP) Community Rating System (CRS). The CRS is a program that recognizes and encourages floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates may be discounted for policy holders to reflect the reduced flood risk resulting from meeting the goals of the CRS program.

Variances from the provisions outlined in the FP – Floodplain zoning district and subsequent findings to support a variance may be subject to additional review by Hazard Program Specialists with the NFIP. Variances may impact the community's eligibility for participation in the NFIP. By participating in the NFIP, residents of the City of Bismarck and its ETA are eligible for flood insurance.

The CRS designation is awarded to communities that go above and beyond FEMA and State of ND floodplain management practices. Approval of a variance from the provisions in the FP – Floodplain District in the Zoning Ordinance may result in removal of the City of Bismarck and its ETA from the program, which may cause discounted insurance premiums to rise.

# Applicable Provision(s) of Zoning Ordinance

Section 14-02-03 of the City Code of Ordinances (Definitions) defines a variance as, "A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular

physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or desire to increase the financial return."

Section 14-04-19(6)(b)(4)(c) of the City Code of Ordinances (FP – Floodplain) states, "Accessory buildings over one hundred twenty (120) square feet in area for residential structures, non-residential structures and manufactured homes shall be subject to the same construction requirements as the residential structure, non-residential structure or manufacture home to which it is accessory." According to the information submitted with the application for a variance the existing residential accessory building is located at an elevation of 1633.4, three feet, seven inches below the BFE (1637) and five feet, seven inches below the elevation requirement (1639) outlined in the zoning ordinance.

# Additional consideration for variances from floodplain provisions

- In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 of the City Code of Ordinances (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:
- 2. The danger to life and property due to flooding or erosion damage;
- The danger that materials may be swept onto other lands to the injury of others;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 5. The importance of the services provided by the proposed facility to the community;
- 6. The necessity to the facility of a waterfront location, where applicable;
- The availability of alternative locations for the proposed use, which are not subject to flooding or erosion;
- 8. The compatibility of the proposed use with the existing and anticipated development;

- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 10. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- 12. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

# Required Findings of Fact | Any Variance

- The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within RR – Residential District zoning classifications.
- 2. The hardship is not caused by the provisions of the Zoning Ordinance.
- 3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
- The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
- The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

# Required Findings of Fact | Floodplain Variance

1. The proposed accessory building may increase flood levels during the base flood discharge.

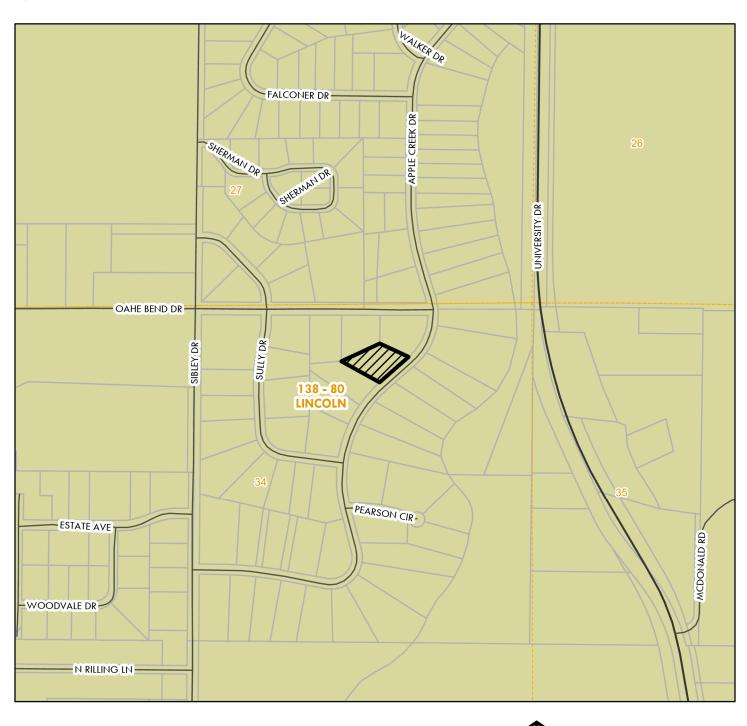
- 2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.
- 3. The applicant has not shown good and sufficient cause for granting the variance.
- 4. A failure to grant the variance would not result in exceptional hardship to the applicant.
- 5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

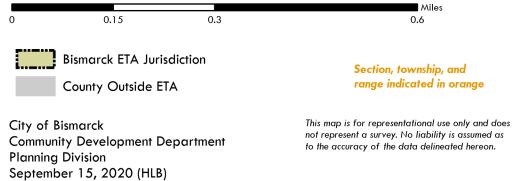
### **Staff Recommendation**

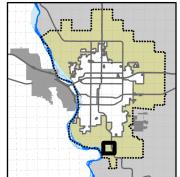
Staff recommends reviewing the above findings, including the findings for a floodplain variance, identifying a hardship and modifying the findings as necessary to support the decision of the Board.

## **Attachments**

- 1. Location Map
- 2. Aerial Map
- 3. Site plan
- 4. Written Statement of Hardship
- City of Bismarck | Building Permit Application and Review Notes (BRAC2018-0074)
- Burleigh County | Permit, submittal documents and review notes
- 7. City of Bismarck | Building Permit Application and Review Notes (BRES2020-0718)
- 8. FIRMette









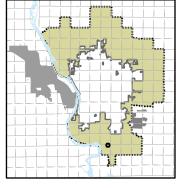
0 0.02 0.04 0.07

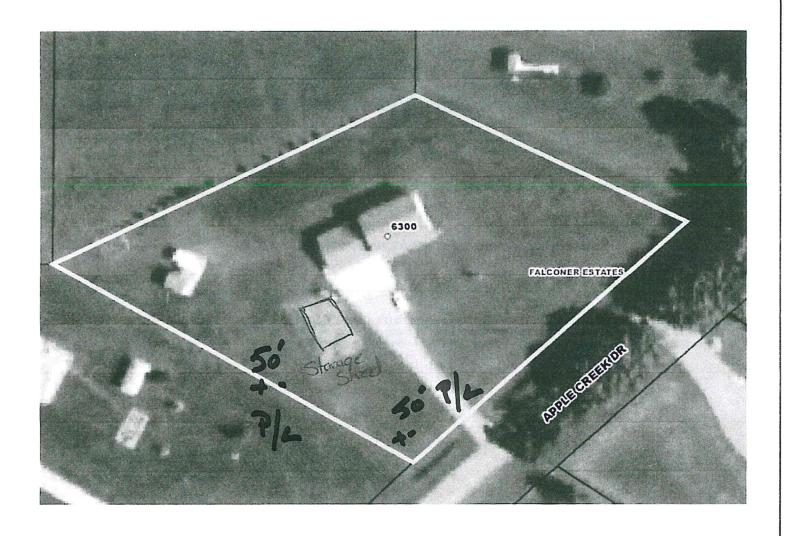


Aerial Imagery from 2019

City of Bismarck Community Development Department Planning Division October 28, 2020 This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.









City of Bismarck
Community Development Department
Planning Division
Phone: 701-355-1840 \* FAX: 701-222-6450 \* TDD: 711
PO Box 5503 \* Bismarck, ND 58506-5503
planning@bismarcknd.gov

WRITTEN STATEMENT
OF HARDSHIP
(VARIANCE REQUEST)

Last Revised: 01/2017

# NOTE: WRITTEN STATEMENTS OF HARDSHIP MUST ACCOMPANY EVERY VARIANCE REQUEST APPLICATION

PROPERTY INFORMATION		
Property Address or Legal Description: (Lot, Block, Addition/Subdivision)		
Location of Property:	$\square$ City of Bismarck	□ ETA
Type of Variance Requested:		
Applicable Zoning Ordinance: (Chapter/Section)		
Describe how the strict application of the re (Only limitations due to physical or topogra other exceptional physical or topographic c properties in the neighborhood are eligible hardship or inconvenience.)	phic features — such as an irregul ondition — that are unique charac	larly shaped, narrow, shallow or steep lot or cteristics and not applicable to other
Describe how these limitations would deprive y hardship.	ou of reasonable use of the land or	r building involved, and result in unnecessary
Describe how the variance requested is the mir	imum variance necessary to allow	reasonable use of the property.



# City of Bismarck Community Development Department Building Inspections Division

Phone: 701-355-1465 \* FAX: 701-258-2073 \* TDD: 711 PO Box 5503 \* Bismarck, ND 58506-5503 buildinginspections@bismarcknd.gov

Last Revised 6/6/2018

# RESIDENTIAL ACCESSORY STRUCTURE APPLICATION

APPLICANT INFORMATION						
Contractor and Contractor Number: (	Papelal	Oth	Const			
Contact Person: Brucan S	Kager		0131			
Phone Number:	7					
Email Address:						
PROJECT INFORMATION						
Property Address: 6300 Apr	ple Cred	k Dr				
STRUCTURE TYPE						
O Pole Structure	<b>6</b>	Gar	age > 200sf		0	Shed <200 sf
CONSTRUCTION TYPE						
New Construction	0		Alteration		0	Addition
FOUNDATION TYPE						
O Crushed rock (gre	Monolithic Slab ater than 200sf)	0	4' Peri Found	imeter dation	0	Pole Structure (Engineering Required)
ADDITIONAL STRUCTURE INFORMATIC	N					
Sidewall height						
Building Dimensions 30'X	40'					
Roof Height	6 5	>				
**Applicant must initial to acknowle	edge any changes	s made aft	er the staff re	view.	Initial	RS

By signing this application, I certify that all information and statements provided on this application and all other documents submitted along with this application are true and correct. I further certify that all work will be done in compliance with all applicable law, codes, and ordinances of the City of Bismarck.

Signature

Date



# Permit Reviews City of Bismarck

Permit Number: BRAC2018-0074 Description: CONSTRUCTION 30'X40' DETACHED ACCESSORY BUILDING

ON

Applied: 6/25/2018 Approved: Site Address: 6300 APPLE CREEK DR

Issued: Finaled: City, State Zip Code: BISMARCK, ND 58504

Status: EXPIRED Applicant: CAPITAL CITY CONSTRUCTION INC

Parent Permit: Owner: <NONE>

Parent Project: Contractor: CAPITAL CITY CONSTRUCTION INC

### Details:

THICKENED EDGE SLAB. MAXIMUM WALL HEIGHT 16'6", MAXIMUM BUILDING HEIGHT 25'. CONVENTIONAL STICK BUILD. ALL PROPERTY LINES MUST BE CLEARLY MARKED.

**3 INSPECTIONS WILL BE REQUIRED:** 

- 1. FOUNDATION INSPECTION AFTER FORMS HAVE BEEN SET BUT BEFORE CONCRETE IS POURED.
- 2. FRAMING INSPECTION AFTER STRUCTURE WALLS, FLOORS, WINDOWS, DOORS, AND OTHER FRAMING MEMBERS ARE IN PLACE AND AFTER EXTERIOR SHEATHING HAS BEEN INSTALLED. PRIOR TO INSULATION. ROOF MUST BE COMPLETED TO THE POINT THAT INTERIOR CAN BE CONSIDERED WEATHER PROTECTED.
- 3. FINAL UPON COMPLETION OF PROJECT.

			LIST OF REVIEW	'S		
SENT DATE	RETURNED DATE	DUE DATE	ТҮРЕ	CONTACT	STATUS	REMARKS
Review Group: AUT	ТО					
6/25/2018	6/25/2018	6/26/2018	RESIDENTIAL ACCESSORY	Cheryl Sick	DENIED	
Notes:						
6/25/2018	3/13/2019	6/26/2018	INITIAL CONCRETE PUBLIC ROW	Linda Smestad	DENIED	
Notes:						
6/25/2018	6/26/2018	6/26/2018	BLD FLOODPLAIN	Brady Blaskowski	INCOMPLETE	

### Notes:

The Building Inspections Division has recently reviewed your permit application for development at the above referenced address. This property is located in the special flood hazard area (SFHA). A floodplain development application and supporting documentation must be completed and submitted to the Building Inspections Division for review including a site plan as described on the application, an elevation certificate, and a signed certification of fill form if fill will be placed on the property to raise the existing elevation of the site above the base flood elevation (BFE). The lowest level of the structure must be elevated to a minimum of two feet (2') above the base flood elevation.

Please let me know if you have any questions.

Permit N	0.	

# **BURLEIGH COUNTY**

Date of Submittal

# **Building in the Floodplain Development Permit Application**

This form is used for any development in a Special Flood Hazard Area as shown on the community's effective FEMA Flood Insurance Rate Map. Development is defined as any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

<b>Property Inform</b>	nation				
Property Address/Loca	ation 6300 Apple Cre	eck Drive	Bismara	k	71.10
Legal Disc.	Loi	&Blk Lof 11 BLK	6	Subdi	
Owner Information	tion				
Owner's Name	yan Skager		ŭ.	Phon	e #
Address (6300	Apple Creck 1)	rive			
Email				Mobil	e Phone #
Contractor Into	rmation				
Contractor Name	)wner			Phon	e #
Company Name				Fax #	
Address / 300 8	Apple Creek Driv	e			
Email				Mobil	e Phone #
Floodplain Map	Information				
Map #	Panel #	Flood Zone	Floodway? Y	Ν	Base Flood Elevation
Submittal Requirem dimensions, 100-year is a new structure or sthe proposed elevation.  Certification and Act I certify that I am the obe performed. I furth	floodplain boundary, and floodw substantial improvement of an e n of the structure's lowest floor ( knowledgement: owner or the authorized agent of er certify that the information gi oplicable laws of the State of Nor	ocation of all existing you boundary, if application as tructure, a concluding basement) if the owner of the proven is true and corresponding to the proven is true an	g and proposed icable, and propertified and com shall be submit operty upon whitect to the best of	osed capleted sed.	tures, water bodies, adjacent roads, lot levelopment. If proposed development FEMA Elevation Certificate that includes work authorized by the permit sought will knowledge. All work will be performed in
Signature of Owner or Own	ner Representative				Date
REVIEWED Application Approved/ Den	For porunt, ied By Date	ul.T.	Telenoy	_	6.03,20

This is an Application only and not the Actual Permit.



# **BURLEIGH COUNTY** BUILDING, PLANNING AND ZONING

# Residential Plan Review

Date of Review:

6-3-2020

Address:

6300 Apple Creek Drive

Bismarck, ND. 58502

Contact:

Bryan Skager

# **Review Notes and Comments**

# SCOPE:

- 1. Construct a 1170 sq./ft. accessory building- detached cold storage building.
- 2. Sidewall Height: 12'

# COMMENTS:

- 1. Maintain setbacks as drawn on site plan.
- 2. Proposed structure is in an AE zone requiring flood proof construction up to 8'.
  - a. Proposed elevation to top of slab or foundation wall: 1633.4'.
  - b. Elevation certificate of as-built construction will be required prior to final inspection.

# RESPONSE:

- a. No comments.
- b. Send photos of as-built foundation/slab on grade- prior to placement of concrete.
- c. Contact this office for all necessary foundation, framing, insulation and final inspections.

Code Cycle: 2018 IRC, IMC, IECC, IEBC

Reviewed: 06032020

OTI 110

> PO Box 5518 221 N. 5<sup>th</sup> Street Bismarck ND 58506-5518

# U.S. DEPARTMENT OF HOMELAND SECURITY Federal Emergency Management Agency National Flood Insurance Program

OMB No. 1660-0008 Expiration Date: November 30, 2022

# **ELEVATION CERTIFICATE**

Important: Follow the instructions on pages 1-9.

Copy all pages of this Elevation Certificate and all attachments for (1) community official, (2) insurance agent/company, and (3) building owner.

SECTION A - PROPERTY INFORMATION	FOR INSURANCE COMPANY USE
A1. Building Owner's Name	Policy Number:
Bryan Skager	
<ul><li>A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No.</li><li>6300 Apple Creek Drive</li></ul>	Company NAIC Number:
City State	ZIP Code
Bismarck North Dakota	58504
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.)  Lot 11 Block 6 Falconer Estates	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) Accessory	
A5. Latitude/Longitude: Lat. N46.7355 Long. W100.7581 Horizontal Datu	m: NAD 1927 X NAD 1983
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insu	rance.
A7. Building Diagram Number1B	
A8. For a building with a crawlspace or enclosure(s):	
a) Square footage of crawlspace or enclosure(s) sq ft	
b) Number of permanent flood openings in the crawlspace or enclosure(s) within 1.0 foot above	e adjacent grade 0
c) Total net area of flood openings in A8.b sq in	
d) Engineered flood openings? ☐ Yes ☒ No	
A9. For a building with an attached garage:	
a) Square footage of attached garage sq ft	
b) Number of permanent flood openings in the attached garage within 1.0 foot above adjacent	grade 0
c) Total net area of flood openings in A9.b 0.00 sq in	
d) Engineered flood openings?  Yes X No	
SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMA	ATION
B1. NFIP Community Name & Community Number B2. County Name City of Bismarck 380149 Burleigh	B3. State North Dakota
	Troit ballott
Number Date Effective/ Zone(s)	Base Flood Elevation(s) (Zone AO, use Base Flood Depth)
38015C0960D D 08-14-2014 Revised Date 08-14-2014 AE 1637	7.0
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Iter	m B9·
☐ FIS Profile ☒ FIRM ☐ Community Determined ☐ Other/Source:	
B11. Indicate elevation datum used for BFE in Item B9: NGVD 1929 X NAVD 1988 O	other/Source:
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Prot	tected Area (OPA)? Tyes X No
Designation Date: CBRS DPA	

# **ELEVATION CERTIFICATE**

OMB No. 1660-0008 Expiration Date: November 30, 2022

MPORTANT: In these spaces, copy the corresponding information from Section A. FOR INSURANCE COMPAN			
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 6300 Apple Creek Drive		Policy Number:	
City State Bismarck North Dakota	ZIP Code 58504	Company NAIC Number	
SECTION C – BUILDING ELEVATION	I INFORMATION (SURVEY R	EQUIRED)	
C1. Building elevations are based on: Construction Drawing *A new Elevation Certificate will be required when construction C2. Elevations – Zones A1–A30, AE, AH, A (with BFE), VE, V1–V Complete Items C2.a–h below according to the building diagram Benchmark Utilized: BSMK CORS	n of the building is complete.  30, V (with BFE), AR, AR/A, AR/	/AE. AR/A1–A30. AR/AH. AR/AO	
Indicate elevation datum used for the elevations in items a) th	rough h) below.		
☐ NGVD 1929 ☑ NAVD 1988 ☐ Other/Source: Datum used for building elevations must be the same as that	seed for the REE		
a) Top of bottom floor (including basement, crawlspace, or er     b) Top of the next higher floor     c) Bottom of the lowest horizontal structural member (V Zone)	nclosure floor)	Check the measurement used.    633.4   X   feet	
d) Attached garage (top of slab)		N/A ☐ feet ☐ meters	
e) Lowest elevation of machinery or equipment servicing the (Describe type of equipment and location in Comments)	W	633.4 X feet meters	
f) Lowest adjacent (finished) grade next to building (LAG)		631.4 X feet meters	
g) Highest adjacent (finished) grade next to building (HAG)	1	633.1 X feet  meters	
h) Lowest adjacent grade at lowest elevation of deck or stairs structural support	, including 	N/A  feet  meters	
SECTION D – SURVEYOR, ENGINE	ER, OR ARCHITECT CERTIF	CATION	
This certification is to be signed and sealed by a land surveyor, end is certify that the information on this Certificate represents my best a statement may be punishable by fine or imprisonment under 18 U.	offorts to interpret the data availa S. Code, Section 1001.	ble. I understand that any false	
Were latitude and longitude in Section A provided by a licensed lar	d surveyor? Yes No	Check here if attachments.	
Certifier's Name License Tim Langerud 5770	Number	OFESSIONAL	
Title PLS Company Name Swenson, Hagen & Co.		LANGERUD SURVEYO	
Address 909 Basin Avenue		6-2-2026	
City State Bismarck North Da	ZIP Code akota 58504	NORTH DAKOTH	
Signature Date 6-2-2		Ext.	
Copy all pages of this Elevation Certificate and all attachments for (1)	community official, (2) insurance a	agent/company, and (3) building owner.	
Comments (including type of equipment and location, per C2(e), if a This certificate is valid only for the information in A1 through A3 and C2 a-h was provide by survey performed May 27, 2020.		insurance purposes. Information in	

# **BUILDING PHOTOGRAPHS**

# **ELEVATION CERTIFICATE**

Continuation Page

OMB No. 1660-0008 Expiration Date: November 30, 2022

IMPORTANT: In these spaces, copy the corresponding information from Section A.			
Suite, and/or Bldg. No.) or	P.O. Route and Box No.	Policy Number:	
State	ZIP Code	Company NAIC Number	
North Dakota	58504		
	Suite, and/or Bldg. No.) or State	Suite, and/or Bldg. No.) or P.O. Route and Box No.  State ZIP Code	

If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8.



Photo Three Caption Rear View

Clear Photo Three

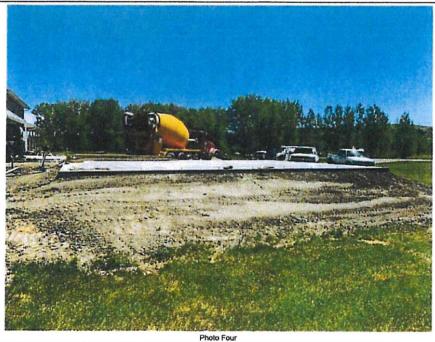


Photo Four Caption Right Side View

Clear Photo Four

# **BUILDING PHOTOGRAPHS**

See Instructions for Item A6.

OMB No. 1660-0008

Expiration Date: November 30, 2022

IMPORTANT: In these spaces,	copy the corresponding information t	from Section A.	FOR INSURANCE COMPANY USE	
Building Street Address (includin 6300 Apple Creek Drive	g Apt., Unit, Suite, and/or Bldg. No.) or	P.O. Route and Box No.	Policy Number:	
City	State	ZIP Code	Company NAIC Number	
Bismarck	North Dakota	58504		

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption Front View

**ELEVATION CERTIFICATE** 

Clear Photo One

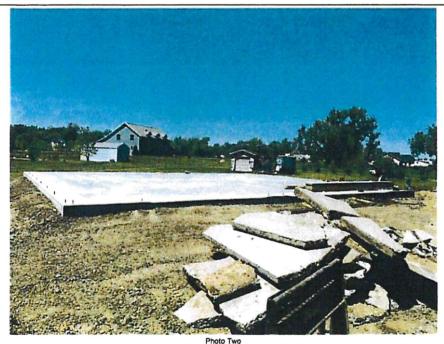


Photo Two Caption Left Side View

Clear Photo Two



City of Bismarck
Community Development Department
Building Inspections Division
Phone: 701-355-1465 \* FAX: 701-258-2073 \* TDD: 711

PO Box 5503 \* Bismarck, ND 58506-5503
buildinginspections@bismarcknd.gov

Last Revised 5/20/20

# RESIDENTIAL ACCESSORY STRUCTURE APPLICATION

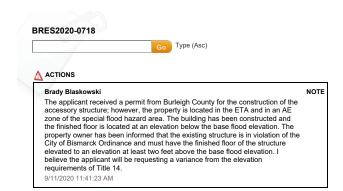
APPLICANT INFORMATION
Property Owner or Contractor & License Number:
Contact Person: Bryan Skager
Phone Number:
Email Address:
PROJECT INFORMATION
Property Address: 6300 Apple Creek Drive
STRUCTURE TYPE Storage Building
O Pole Structure O Garage > 200sf Shed < 200 sf
CONSTRUCTION TYPE
New Construction O Alteration O Addition
FOUNDATION TYPE
O Crushed rock or Slab (200 sf or less) O Monolithic Slab (greater than 200sf) O 4' Perimeter Foundation © Pole Structure (Engineering Required)
additional information, 12" thicked Shab
Sidewall Height 12
Building Dimensions 30'X40'
Total Building Height

All permit applications must include a site plan. The site plan must be to scale and must include the location of property lines, easements, required setbacks, existing structures, and the proposed location of the structure.

By signing this application, I certify that all information and statements provided on this application and all other documents submitted along with this application are true and correct. I further certify that all work will be done in compliance with all applicable law, codes, and ordinances of the City of Bismarck.

Signature

Date



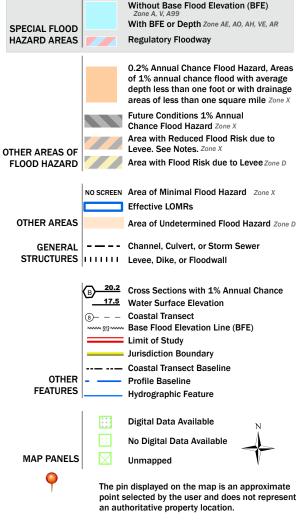


# National Flood Hazard Layer FIRMette



# Legend

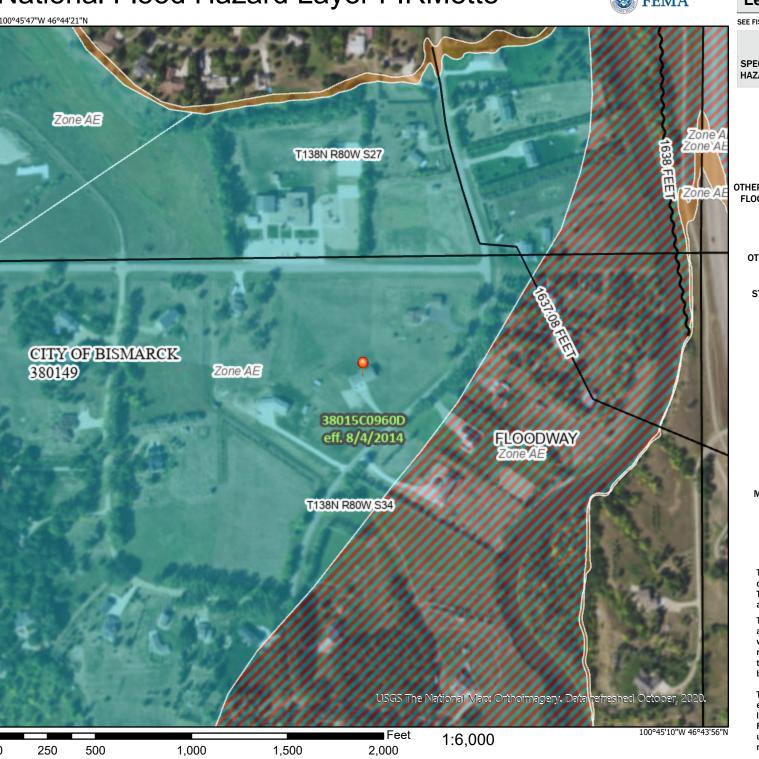
SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT



This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 10/28/2020 at 3:02 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



# BISMARCK BOARD OF ADJUSTMENT MEETING MINUTES EXCERPT November 4, 2020

The Bismarck Board of Adjustment met on November 4, 2020, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Due to ongoing public health concerns related to COVID-19, the meeting was held via Zoom. Chair Marback presided and was present in the Tom Baker Meeting Room.

Members present were Jennifer Clark, Ken Hoff, Curtis Janssen, Michael Marback and Chris Seifert.

Member absent was Rick Wohl.

Staff members present were Kim Lee – Planning Manager, Brady Blaskowski, Building Official/Floodplain Administrator, Jannelle Combs – City Attorney, Jenny Wollmuth – Planner and Hilary Balzum – Community Development Administrative Assistant.

\*\*\*\*

# VARIANCE FROM SECTION 14-04-19(6)(b)(4)(c) OF THE CITY CODE OF ORDINANCES (FLOODPLAIN DISTRICT) – LOT 6, BLOCK 11, FALCONER ESTATES (6300 APPLE CREEK DRIVE)

Chair Marback stated the applicant, Bryan Skager, is requesting a variance to allow a recently constructed residential accessory building located within the Special Flood Hazard Area (SFHA) or 100-year floodplain at a finished floor elevation of 1633.4 located on Lot 6, Block 11, Falconer Estates (6300 Apple Creek Drive) to remain. The property is located south of Bismarck, south of Oahe Bend Drive and East of Sibley Drive, along the northwest side of Apple Creek Drive.

Ms. Wollmuth said the building is currently located three feet, seven inches below the Base Flood Elevation (BFE) and five feet, seven inches below the elevation requirement outlined in the zoning ordinance. She then explained that according to City records, the applicant applied for a building permit (BRAC2018-0074) to construct a 1,200 square foot accessory building in June 2018. After review of the application by staff, the owner was notified by the City's Building Official/Floodplain Administrator that the property was located within the Special Flood Hazard Area (SHFA) and that a floodplain development application and additional submittal documents, including an elevation certificate, would be needed to review and approve the building permit. She said the owner was also informed that the lowest level of the accessory building must be elevated to a minimum of two (2) feet above the Base Flood Elevation (BFE) of the property. Ms. Wollmuth noted that a copy of the building permit application and review comments are attached to the staff report.

Ms. Wollmuth explained the applicant and the City's Building Official/Floodplain Administrator discussed the requirements needed to complete the review and issue the building permit over the phone. She said the additional required documentation was not received and no additional

conversations between the application and the City's Building Official/Floodplain Administrator took place and the building permit was closed/expired in February 2019.

Ms. Wollmuth stated that according to Burleigh County Building/Planning/Zoning Department records, the applicant applied for and was issued a building permit by the County for a 1,170 square foot accessory building on June 3, 2020. She said the application for review included an Elevation Certificate with a survey completed May 27, 2020 and signed by a Registered Land Surveyor on June 2, 2020. The Elevation Certificate establishes the BFE at an elevation of 1637, contains photographs taken at the time of survey showing the building under construction, and indicates that the building is located at a finished floor elevation of 1633.4. Ms. Wollmuth added that a copy of the Burleigh County building permit, Elevation Certificate and permit review are attached to the staff report.

Ms. Wollmuth further stated the Burleigh County Building/Planning/Zoning Department has acknowledged that the building permit was issued in error, as the property is not located in the County's jurisdiction. She said once the error was discovered, the applicant was directed to work with the City of Bismarck Building Inspections Division to obtain a building permit for the accessory building that had been constructed.

Ms. Wollmuth closed by saying the applicant applied for a new City building permit (BRES2020-0718) on September 9, 2020 and the permit was denied as the elevation certificate indicated that the residential accessory building was not elevated two feet above the BFE as required by the zoning ordinance. She said a copy of the building permit application and review comments are attached to the staff report.

Ms. Wollmuth detailed the following considerations for variances from floodplain provisions outlined in the City's Zoning Ordinance:

- 1. In considering appeals and variance applications, and in addition to the requirements outlined in Section 14-06-02 of the City Code of Ordinances (Powers and Duties), the Board of Adjustment shall consider all technical evaluations, all relevant factors, and the standards specified in this section, including:
- 2. The danger to life and property due to flooding or erosion damage.
- 3. The danger that materials may be swept onto other lands to the injury of others.
- 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- 5. The importance of the services provided by the proposed facility to the community.
- 6. The necessity to the facility of a waterfront location, where applicable.
- 7. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion.

- 8. The compatibility of the proposed use with the existing and anticipated development.
- 9. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- 10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- 12. The costs of providing governmental services during and after flood conditions, including maintenance and repair of utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

# Ms. Wollmuth then gave the following findings for all variances:

- 1. The need for a variance is not based on special circumstances or conditions unique to the specific parcel of land involved that are not generally applicable to other properties in this area and within the RR-Residential zoning district.
- 2. The hardship is not caused by the provisions of the Zoning Ordinance.
- 3. Strict application of the provisions of the Zoning Ordinance would not deprive the property owner of the reasonable use of the property.
- 4. The requested variance is not the minimum variance that would accomplish the relief sought by the applicant.
- 5. The granting of the variance is not in harmony with the general purposes and intent of the Zoning Ordinance.

# Ms. Wollmuth then gave the following findings for floodplain variances:

- 1. The proposed accessory building may increase flood levels during the base flood discharge.
- 2. The variance is not the minimum necessary, considering the flood hazard, to afford relief.
- 3. The applicant has not shown good and sufficient cause for granting the variance.
- 4. A failure to grant the variance would not result in exceptional hardship to the applicant.
- 5. The granting of the variance may result in increased flood heights, additional threats to public safety and conflict with existing local laws or ordinances. However, it is doubtful the granting of the variance would cause fraud or victimization of the public.

Ms. Wollmuth said staff recommends reviewing both the findings for a variance and the findings for a floodplain variance contained in the staff report, identifying a hardship and modifying both sets of findings as necessary to support the decision of the Board.

Mr. Seifert asked, if when the building permit was applied for, was Capital City Construction the applicant.

Mr. Skager said that is his employer and the letterhead he used, but he submitted the application himself.

Mr. Seifert said it should have been a red flag when Burleigh County issued a permit at 1637 feet of elevation but the building was constructed at 1633 feet of elevation.

Mr. Skager said he was told to consult with Burleigh County by an acquaintance and he built the building at the same elevation as his house.

Mr. Seifert said the City denied a building permit for the same structure two years ago.

Mr. Skager said he had considered selling the property so he held off on the project at that time.

Mr. Janssen said he is puzzled how,if when he consulted the City the elevation was discussed, the elevation requirement was not discussed with Burleigh County.

Mr. Skager said he received guidance from Burleigh County that he could build below the BFE if he lived in Burleigh County. He said he is not trying to hide anything but was misinformed and it seems the flood requirements change quite a bit.

Mr. Janssen said it is a matter of knowing who to get permits from and how to build reasonably, and the building is now built. He said as an owner he is the one responsible.

Mr. Skager said he thought he was being responsible, and he has a lot of money invested into this project.

Mr. Janssen said there is an accessory building that is built to the required elevation nearby this property that appears to meet the criteria which also should have been an indicator. He said his concern is of the owner getting information from both the City and Burleigh County.

Mr. Skager said there would be a large cost involved with bringing in that much fill dirt.

Mr. Skager said there is also limitations on insuring outbuildings like this.

Mr. Janssen said that might be true, but construction like this can impact adjacent owners in other ways.

Mr. Hoff said when the second City building permit was applied for, when did the question of there being an issue arise.

Mr. Blaskowski said that he had a conversation with the owner, who said Burleigh County had issued him a permit, and they talked through the variance application process.

Mr. Hoff asked what options were given to the owner. Mr. Blaskowski said they discussed the error and the elevation requirements and Mr. Skager was given the options to either elevate the structure or try to obtain a variance.

Mr. Hoff asked if the structure is built or if only the concrete is poured. Mr. Blaskowski said at the time they spoke regarding the County issuing a permit in error and the option to either elevate the structure or try to obtain a variance the structure was already built.

Chair Marback asked if the building could still be floodproofed.

Mr. Blaskowski said that the zoning ordinance states that a residential accessory building must adhere to the same elevation requirements as a residential structure or home. He went on to say that zoning ordinance allows commercial buildings to be dry floodproofed only, and that there are no provisions in the zoning ordinance that allow wet floodproofing.

Mr. Hoff asked why the first permit was allowed to expire.

Ms. Wollmuth said the permit was applied for, but because it was never issued, it expired.

Chair Marback opened the public hearing.

Written comments in support of the request are attached as Exhibits A-E. Written comments in opposition of the request are attached as Exhibit F.

There being no further comments, Chair Marback closed the public hearing.

Chair Marback asked if there is any responsibility to be held by Burleigh County.

Ms. Combs said that is a possibility, adding that the individual who told the owner to consult with Burleigh County could be held liable also.

Chair Marback asked if accessory buildings were covered under insurance, and if they were not why is there a requirement to elevate residential accessory buildings.

Ms. Wollmuth said the floodplain regulations and ordinances go hand-in-hand with the National Floodplain Insurance Program, and that elevation requirements are not necessarily made because insurance is or is not available.

Ms. Combs said even if a building cannot be insured it would still need to meet the requirements outlined in the zoning ordinance. She added that for a floodplain variance, the BFE cannot rise, even though there are different rules for different types of structures such as with dry floodproofing.

Mr. Blaskowski said he understands insurance is available for accessory buildings and the ordinance outlines elevation requirements for buildings they are accessory to. As this building is accessory to a residential structure, it is considered a residential accessory building and must be elevated to two feet above the BFE.

Mr. Janssen said this is an unfortunate situation but as property owners there has to be personal responsibility to do things right. He said he does not see a hardship with this request. Although he feels bad about what happened, it should not have happened. He said he hopes there are steps being taken to fix the City of Bismarck and Burleigh County communication, but approving this request would not be fair to those who have done things correctly. He said the BFE was indicated and the owner did not take notice of that.

**MOTION:** 

A motion was made by Mr. Hoff to deny the variance from Section 14-04-19(6)(b)(4)(c) of the City Code of Ordinances (FP – Floodplain District) to allow a recently constructed residential accessory building located within the Special Flood Hazard Area (SFHA) or 100-year floodplain at a finished floor elevation of 1633.4 to be located on Lot 6, Block 11, Falconer Estates (6300 Apple Creek Drive). The motion was seconded by Mr. Janssen and with Board Members Clark, Hoff, Janssen, Seifert, and Marback voting in favor of the motion, the motion was unanimously approved and the variance was denied by the Board of Adjustment.

From: Planning - General Mailbox

To: <u>Hilary Balzum</u>; <u>Daniel Nairn</u>; <u>Jenny Wollmuth</u>; <u>Kim Lee</u>; <u>William Hutchings</u>

**Subject:** FW: 11/4/2020 public hearing

Date: Wednesday, November 4, 2020 9:23:04 AM

From: >

Sent: Tuesday, November 3, 2020 8:47 PM

To: Planning - General Mailbox <planning@bismarcknd.gov>

Subject: 11/4/2020 public hearing

\*\*\*External Email - Use caution clicking links or opening attachments\*\*\*
Board of Adjustment.....WHY WAS MR. SKAGER ALOUD TO BUILD THIS BEFORE REQUESTING VARIANCE? NO BUILDING PERMIT?

OR WAS TOLD TO BUILD TO THE 100 YEAR ELEVATION BUT

IGNORED IT? BRING IT DOWN!

WHY HAVE RESIDENT AT 6521 PEARSON CIRCLE BOUGHT IN A LARGE GARAGE WITH OUT MEETING 100 YEAR ELEVATION?

RESIDENT AT 6510 PEARSON CIRCE HAVE IGNORED THE BUILDING CONVENANTS AND RESTRICTIONS, WITH FARM ANIMALS

I AM PISSED OFF THAT VERY FEW FOLLOW THE RULES ON CONVENANTS AND 100 YEAR ELEVATION, AND THE REST COME CRYING FOR A VARIANCE.

WHAT IS THE THE BOARD GO, N DO ABOUT ALL THIS?

RON

From: Planning - General Mailbox

To: <u>Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings</u>

Subject: FW: Variance request comments

Date: Tuesday, November 3, 2020 8:28:14 AM

From: David DeRung <

Sent: Monday, November 2, 2020 8:44 PM

To: Planning - General Mailbox <planning@bismarcknd.gov>

**Subject:** Variance request comments

\*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

I am writing in response to Bryan Skager's request for variance.

The City of Bismarck informed Bryan that he was planning on building his garage outside of the requirements and

>

denied his permit in the summer of 2018. Burleigh County issued him a permit in error during the summer of 2020.

Bryan likely knew it would not pass inspection/meet code at some point, acted unethically and built it.

(Easier to ask forgiveness than to get permission).

I was planning on building a garage this year too, but was informed of the new elevation requirements by the City.

To me, it seems ridiculous to have a garage elevated above the first floor level of my home (which did not even have water in

the garage during the flood of 2011). Since "you can't fight city hall", I built a 10x12 shed instead.

From my standpoint, I do not think storage buildings/garages need to be built to the level currently required.

However, I do not think that the hardship should be granted based upon my understanding of the provision.

Bryan knew the requirements before building, having attempted the process once before.

Also, what about the residents at 6410 Sully Drive, who incurred much extra expense in hauling in dirt/gravel to

meet the code in 2013 when they added their garage?

Does Burleigh County bear any responsibility for granting the permit?

If you do allow a hardship, I will probably be turning my shed into a garage next summer.

Dave DeRung

6201 Sully Drive Bismarck, ND From: Planning - General Mailbox

To: <u>Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings</u>

Subject: FW: Bryan Skager"s variance hearing.

Date: Tuesday, November 3, 2020 8:49:16 AM

From: bmeidinger < >

Sent: Monday, November 2, 2020 5:04 PM

**To:** Planning - General Mailbox <planning@bismarcknd.gov>; Jenny Wollmuth

<jwollmuth@bismarcknd.gov>

**Subject:** Bryan Skager's variance hearing.

\*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

I am writing in support of my neighbor, Bryan Skager, to obtain approval for the construction of his accessory building. His request to build below the Base Flood Elevation, in my opinion, is not an absurd request and should be granted. First, his primary residence should be equivelant to that of any other outside buildings. He should not be asked to build above his existing residence. Secondly, I feel that because our homes were built at the level they are, then we should all be permitted to construct storage buildings as long as they follow the covenants. Lastly, his request should be granted as it does not negatively impact our view or property in any way.

Please feel free to contact me with any questions. Thank you for your time.

Sincerely, Brian Meidinger 2131 Oahe Bend Bismarck 58504

Sent from Samsung tablet

From: Planning - General Mailbox

To: Hilary Balzum; Daniel Nairn; Jenny Wollmuth; Kim Lee; William Hutchings

Subject: FW: Nov 4th Public Hearing - Bryan Skager Date: Monday, November 2, 2020 1:24:44 PM

From: Scott and Nancy Overson <

Sent: Sunday, November 1, 2020 8:25 PM

**To:** Planning - General Mailbox <planning@bismarcknd.gov>;

**Subject:** Nov 4th Public Hearing - Bryan Skager

\*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

Dear Board,

My wife and I are residents of Falconer Estates, and live across the street from Bryan Skager. We are in support of allowing the construction of his accessory building., It is well constructed and matches his primary structure.

>

We understand the concerns for flood hazards related to houses. We believe that secondary structures, that are not designed as living space, should be allowed to be constructed with some discretion of the home owner, as long as they meet the convenance of that neighborhood.

When flood insurance was taken over by FEMA, it was changed to a maximum coverage of \$250,000, regardless of the value of the property. This amount would not cover most homes in this area. Homeowners that choose to build secondary structures understand the risk involved and would be taking this risk at their own expense. As long as structures are being built to current building code, it should be the right of the property owner to build secondary structures.

Sincerely, Scott and Nancy Overson 6321 Apple Creek Dr.

Sent from Outlook

From: Randy Heaton

To: <u>Planning - General Mailbox</u>
Subject: 6300 Apple Creek Dr

Date: Wednesday, October 28, 2020 9:56:17 AM

\*\*\*External Email - Use caution clicking links or opening attachments\*\*\*

My name is Randy Heaton and I live at 6235 Apple Creek Dr. I would be in favor of letting him proceed with the building with how it is.

Thanks

Sent from my iPhone